

IV. Claims 31-34, drawn to a second recombined chromosome having different features.

Applicant respectfully traverses this restriction.

Applicant respectfully traverses the restriction among Groups I and II on the grounds that the Examiner has not provided adequate basis for the restriction of claims into these groups according to M.P.E.P. §806.05.

On page 2 of the Office Action, the Examiner states that restriction of the methods of Groups I and II “would require search in differing areas, which would pose an undue search burden upon the examiner if not restricted.” Applicant respectfully submits that the identical classification and subclassification status accorded by the Examiner indicates there is no undue search burden, and that the Examiner has not provided a basis for an undue search burden which is required for a restriction requirement. M.P.E.P. §803. Applicant respectfully submits that these claims present no such undue burden and as such the restriction between groups I and II may be properly withdrawn.

Applicant respectfully traverses the restriction among Groups I and III and the restriction among Groups II and IV on the grounds that the Examiner has not provided adequate basis for the restriction of claims into these groups according to M.P.E.P. §806.05(f).

On pages 2 and 3 of the Office Action, the Examiner states that “the Chromosome can be made by direct cloning.” Although M.P.E.P. §806.05(f) states that “[a]llegations of different processes or products need not be documented,” Applicant respectfully submits that the Examiner has not provided any support for the contention that “direct cloning” can be used to generate the chromosome as claimed.

Applicant respectfully requests that the improper subdivision by restriction in these claims be withdrawn.

Applicant hereby elects Group II (claims 22-28). Applicant expressly reserves the right under 35 U.S.C. § 121 to file a divisional application directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application.

Applicant requests reconsideration of the restriction requirement and examination of the elected subject matter on the merits.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 529872000100. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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